IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE CIVIL JURISDICTION

FIRST APPEAL NO.927 OF 1996

Maharashtra State Road Transport
Corporation, Bombay. Appellant
(Orig.Opponent no.2)

vs.

1. smt.Kamalabai Bhika More;
2. Dilip Shantaram Dinde;
3. United India Insurance Company
Ltd., Nashik;
4. Surekha Subhash Dinde Respondents

(R.No.1-orig.claimant-applicant &
R.Nos. 2 to 4-orig.opponent Nos. 3 to 5)

None present.

CORAM : ANOOP V. MOHTA,J.

DATED : 3rd July, 2007

ORAL JUDGMENT:

None for the appellant.

2. The claimant who is the grand mother of deceased has claimed an amount of Rs.2 lakhs, as a compensation, on account of his death in a vehicular accident.

3. On 18.11.1988 the deceased was travelling by taxi, driven by its driver Subhash Dinde along with his wife and daughter. They were on the front seat. There were three passengers including the deceased in the taxi. At about 5.45 p.m. near village Anjeneri, on

Nashik-Trimbak Road, one s.T. bus bearing No.MTD-9799 came from the opposite direction and gave a violent dash to the tax driven by the deceased driver Subhash. The deceased was driving the taxi by the left side of the road. However, S.T. bus driven by opponent no.1 negligently in a high speed gave a dash to the taxi. In this accident, the driver of the taxi and two passengers including the deceased Uttam died on the spot. Other persons received minor injuries. Therefore, claim petition in question was filed which was opposed by opponent nos. 1 and 2. The owner of the taxi also filed its written statement. The taxi was insured with opponent no.4. Opponent no.4 therefore also resisted the claim of the claimant.

4. After considering the material available on record, the learned Tribunal held that the said Uttam met with his death when taxi in question was dashed by S.T. bus in negligent manner by respondent no.1 Respondent no.2 i.e. opponent no.2 failed to prove that the accident occurred due to rash and negligent driving of the taxi by its driver. The petitioner-claimant failed to prove that the taxi was insured with opponent no.4.

5. Based on that the learned Tribunal has passed the order in the following terms:

. The opponent no.1, the driver and opponent no.2, the owner of the S.T.bus, jointly and several shall pay an amount of Rs.60,000/- (inclusive of amount, if any paid under no fault liability to the claimant, with interest thereon at the rate of 12% p.a. from the date of filing of the claim petition, till its deposit in the office of the claim Tribunal.

. They shall also pay the proportionate costs of this petition to the claimant and bear their own.

. The amount so deposited be paid to the claimant and half the amount of her share be kept in the FDR with any nationalized Bank for one year. The remaining half be paid to her by crossed account payee cheque.

. The claim petition, as against opponent nos. 3 and 4 stands dismissed with no order as to costs.

. Award accordingly."

6. After perusing the record as well as the reasoning given, I find that there is a material to justify the claim as awarded. Apart from the deceased there were two other passengers who died on the spot. The material justify to show that the driver of the S.T. bus was negligent and that resulted into accident in question. There is no perversity as such which need to be interfered with the reasoning as given by; the Tribunal. The finding as given is based on the material available record on all counts.

7. Admittedly there is no challenge made by the owner of the tax or by any other person except the appellant. The finding as given therefore remained unchallenged

even on the merit of the matter. The accident is of 18.11.1988 and therefore grant of interest at the rate of 12% from the date of the filing of the petition, cannot be said to be unreasonable. The compensation though claimed for Rs.2 lacs, but an amount of Rs.60,000/- in lumpsum along with interest thereon at the rate of 12% has been awarded which according to me is also just and proper.

8. In view of this, the appeal is dismissed.

[ANOOP V. MOHTA,J.]